

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Ray Garcia,)	
)	
Petitioner,)	
)	Case No: 3:10-cv-76
vs.)	
)	
Wardon Redmann,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner Ray Garcia ("Garcia"), an inmate at the James River Correctional Center, submitted for filing a habeas petition under 28 U.S.C. § 2254 and an application for leave to proceed *in forma pauperis*. The certificate of inmate account and assets from the correctional institution shows that as of August 13, 2010 Garcia had \$17.00 in his Inmate Account. In the six months preceding August 13, 2010, Garcia's average balance in the inmate account was \$35.02 and the average of the monthly deposits to the Inmate Account was \$94.64. Garcia stated he receives \$12.00 per month in allowance or wages from the correctional institution.

It appears Garcia has sufficient funds to pay the \$5.00 filing fee for this action. It is therefore **RECOMMENDED** that Garcia's application to proceed *in forma pauperis* (Doc. #2) **BE DENIED**. If Garcia wishes to pursue his petition for habeas relief, he may pay the \$5.00 filing fee.

Dated this 24th day of August, 2010.

/s/ Karen K. Klein
Karen K. Klein
United States Magistrate Judge

Notice of Right to Object

Pursuant to Rule 72(a) and (b), Federal Rules of Civil Procedure, and District of North Dakota Local Court Civil Rule 72.1(D)(2) and (3), any party may object to this Report and Recommendation by filing with the Clerk of Court no later than September 10, 2010, a pleading specifically identifying those portions of the Report and Recommendation to which objection is made and the basis of any objection. Failure to object or to comply with this procedure may forfeit the right to seek review in the Court of Appeals.